IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 1190 of 2006

Sai Trimurti Enterprises .. Petitioner

versus

New Saraswati Housing Society

Limited and ors. .. Respondents

...

Mr.R.S. Datar for the petitioner.

Mr.U. Mannadiar for the respondents.

CORAM : D.G. KARNIK, J

DATED : 2nd March 2006.

P.C.:

1. Heard learned counsel for the petitioner and respondent no.1.

2. By this petition, the petitioner challenges the order dated 23rd December 2005 passed by Divisional

Joint Registrar dismissing the petitioner’s appeal u/s.152 of the Maharashtra Co-operative Societies act (for short "MCS Act").

2. The petitioner is a promoter and builder. He constructed the building consisting of 11 flats. Seven flats were sold to different persons and four flats appear to have been retained by the petitioner. As the petitioner did not convey the building, the members have filed a suit for specific performance which is pending. In the meanwhile, the flat purchasers also made an application to the Assistant Registrar of Co-operative Societies for registration of a society. The society was ordered to be registered. That order was challenged by filing an appeal u/s.152 of the Maharashtra Co-operative Societies Act which was dismissed by the order dated 23rd December 2005. That order is impugned in this Writ Petition.

3. In my view, the impugned order does not affect the petitioners rights in any way. Though the society has been formed and registered the property has not been conveyed and the respondent no.1 society cannot claim any rights in the building till the conveyance. By mere formation and registration of a co-operative

society, any rights of the petitioner nor his defence in the pending suit between him and the members would be affected. In the circumstances, the petitioner cannot be said to be aggrieved by the order of registration of a co-operative society. Furthermore, I do not find any error in the order registering the co-operative society as well as the appellate order.

5. Hence, Writ Petition is rejected.

(D.G. KARNIK, J)